

REMARKS

Claims 1, 2, 6, 9, 11, 12, 15, 18, 19, 21, 22, 25, 28, 30-34, 36, 37, 40, 43, 45-48, 51, 54, 180, and 182-186 are pending in this application. Claims 1, 2, 9, 11-12, 18, 21-22, 28, 30-32, 36-37, 43, 45-46, 54, 180 and 186 are amended. Claims 204-209 are cancelled. Applicants reserve the right to pursue the subject matter cancelled herein in a continuation application(s). No new matter is added.

OBJECTIONS

The Examiner states that Applicant's November 30, 2004 Amendment and Response has overcome the 35 U.S.C § 103 with regard to claims 9, 18, 28, 43, 54, 186 and 204-209. The Examiner further states that these claims are objected to but would be allowable if rewritten to include the limitations of any intervening claims as they are directed to the species β -lapachone.

Claim 1, from which claims 2, 6 and 30 depend, has been amended to delete the phrase "or a derivative or analog thereof" and thus incorporate the subject matter of claim 204. Claim 204 has been cancelled. Claims 2 and 30 have also been amended to delete the phrase "or a derivative or analog thereof." Claim 9 has been amended to incorporate the subject matter of claim 1, as amended herein.

Claim 11, from which claims 12, 15, 19 and 30 depend, has been amended to delete the phrase "or a derivative or analog thereof" and thus incorporate the subject matter of claim 205. Claim 205 has been cancelled. Claims 12 and 30 have also been amended to delete the phrase "or a derivative or analog thereof." Claim 18 has been amended to incorporate the subject matter of claim 11, as amended herein.

Claim 21, from which claims 22, 25 and 30 depend, has been amended to delete the phrase "or a derivative or analog thereof" and thus incorporate the subject matter of claim 206. Claim 206 has been cancelled. Claims 22 and 30 have also been amended to delete the phrase "or a derivative or analog thereof." Claim 28 has been amended to incorporate the subject matter of claim 21, as amended herein.

Claim 31, from which claims 32-34 and 36-37 depend, has been amended to delete the phrase "or a derivative or analog thereof" and thus incorporate the subject matter of claim 207. Claim 207 has been cancelled. Claims 32 and 36-37 have also been amended to delete the phrase

“or a derivative or analog thereof.” Claim 43 has been amended to incorporate the subject matter of claim 31, as amended herein.

Claim 45, from which claims 46-48 and 51 depend, has been amended to delete the phrase “or a derivative or analog thereof” and thus incorporate the subject matter of claim 208. Claim 208 has been cancelled. Claim 46 has also been amended to delete the phrase “or a derivative or analog thereof.” Claim 54 has been amended to incorporate the subject matter of claim 45, as amended herein.

Claim 180, from which claims 182-185 depend, has been amended to delete the phrase “or a derivative or analog thereof” and thus incorporate the subject matter of claim 209. Claim 209 has been cancelled. Claim 186 has been amended to incorporate the subject matter of claim 180, as amended herein.

Based on the foregoing, Applicants request the present objection be withdrawn.

REJECTIONS

Rejections under 35 U.S.C. 103

The Examiner has maintained the rejection of claims 1, 2, 6, 11, 12, 15, 19, 21, 22, 25, 30-34, 36, 37, 40, 45-48, 51, 180 and 182-185 as being unpatentable over Pardee *et al.* WO 00/61142 (“Pardee”) in view of Bodor *et al.* U.S. Patent No. 4,983,586 (“Bodor”).

Although Applicants disagree with the Examiner, in the interest of expediting prosecution, Applicants have amended claims 1, 2, 6, 11, 12, 15, 19, 21, 22, 25, 30-34, 36, 37, 40, 45-48, 51, 180 and 182-185 to incorporate the subject matter of claims 204-209. The Examiner states that claims 204-209 would be allowable if rewritten to include the limitations of any intervening claims as they are directed to the species β -lapachone. Pending claims 1, 2, 6, 9, 11, 12, 15, 18, 19, 21, 22, 25, 28, 30-34, 36, 37, 40, 43, 45-48, 51, 54, 180, and 182-186, as amended herein, are directed to the species β -lapachone. Accordingly, the rejection is moot and should be withdrawn.

CONCLUSION

In view of the aforementioned amendments and remarks, Applicants assert that the pending claims are in condition for allowance. A notice to this effect is earnestly solicited. If there are any questions regarding this amendment the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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